

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Relicensing of Certain Part 90
Frequencies to Require Spectrally
Efficient Use

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RM-9705

Reply Comments of the Industrial Telecommunications Association, Inc.

On August 24, 1999, the Commission released a *Public Notice* seeking comment on a petition for rule making filed by the American Mobile Telecommunications Association, Inc.¹ On September 23, 1999, the Industrial Telecommunications Association, Inc. (ITA), as part of a coalition comprised of 23 industry representatives filed comments in this proceeding (hereinafter, the Industry Coalition).² Now, ITA submits these reply comments in order to further support the joint opposition filed by the Industry Coalition.

AMTA's petition requests that the Commission divide all non-public safety pool spectrum in the 450-470 MHz band into a 2 MHz allocation for shared use, relocate all private wireless incumbents to this 2 MHz block, and allocate the remaining 10 MHz of spectrum to be assigned via auctions.³ AMTA's only justification for such an

¹ See *Public Notice*, Office of Public Affairs Reference Operations Division Petition for Rule Making Filed, Report No. 2356 (rel. Aug. 24, 1999).

² The following organizations were part of the industry coalition: Aeronautical Radio, Inc., the Alliance of Motion Picture and Television Producers, the American Automobile Association, the American Petroleum Institute, the American Trucking Associations, Associated Builders & Contractors, Inc., the Association of American Railroads, the Council of Independent Communications Suppliers, the Forest Industries Telecommunications, the Industrial Telecommunications Association, Inc., the International Taxicab and Livery Association, MRFAC, Inc., the National Food Processors Association, the National Mining Association, the National Propane Gas Association, the National Ready Mixed Concrete Association, the National Utility Contractors Association, the New England Fuel Institute, the Newspaper Association of America, the Personal Communications Industry Association, the Telephone Maintenance Frequency Advisory Committee, the United Telecom Council, and the USMSS, Inc..

³ AMTA Petition at ii.

outrageous proposal is that the current regulatory environment for the 450-470 MHz band does not meet the spectrum needs of AMTA's membership.⁴ In order to satisfy these needs, AMTA suggests that the Commission reassess the entire regulatory and licensing framework for the 450-470 MHz band.⁵ As clearly demonstrated by the Industry Coalition, AMTA's petition is wholly without merit and should be summarily dismissed.

This petition is merely an attempt to convert the last private wireless spectrum resource to commercial use – and solely for the benefit of a handful of entities.⁶ One could also assume that the petition is a covert attempt to secure spectrum for the purpose of 800 MHz system relocation functions. It is incredibly presumptuous on the part of AMTA to suggest that 2 MHz would be sufficient to satisfy the spectrum needs of the *entire* private wireless industry. As most of the commenters noted, AMTA's proposal, if adopted, would have a devastating impact on the private wireless industry.⁷ The private wireless industry is in the process of integrating new technologies through the refarming proceeding, as well as accommodating, to the extent possible, its growing spectrum needs – all without the benefit of an allocation of new spectrum. As demonstrated by the Land Mobile Communications Council in its petition requesting an allocation of spectrum for private wireless use, in each of the top 10 cities no channels

⁴ *Id.* at 2.

⁵ *Id.* at 2-3.

⁶ ITA echoes Mobex Communications, Inc.'s concern that AMTA's petition is nothing more than a thinly veiled attempt to place the 450-470 MHz band in the hands of a few large providers; or, more specifically one large provider – Nextel Communications, Inc. (Nextel). See Comments of Mobex Communications, Inc. at 4.

⁷ See Comments of Aeronautical Radio, Inc. (ARINC) at 2; Comments of Association of American Railroads (AAR) at 4; Comments of Association of Public Safety Communications Officials-International, Inc. (APCO) at 3; Comments of Blooston, Mordkofsky, Jackson & Dickens at 10-16; Comments of the Boeing Company (Boeing) at 2; Comments of the Industry Coalition at 4-7; Comments of Mobex Communications, Inc. at 6-8; and Comments of Motorola, Inc. at 5.

are available for assignment in the 470-512 MHz, the 800 MHz, and the 900 MHz bands.⁸ As a consequence, the 450-470 MHz band contains the last channels available for assignment; and there is only a limited amount of spectrum remaining in that band. The private wireless industry is in dire need of an allocation of new spectrum and, incredibly enough, AMTA is now proposing to reallocate the limited amount we still have for commercial use. To even contemplate AMTA's proposal would be absurd.

Furthermore, AMTA's proposal is not practical. License assignments in the 450-470 MHz band are shared – resulting in very intensive use of this spectrum. The 450-470 MHz band houses thousands of private wireless licensees. It would be virtually impossible to relocate all of these users. Even if they could be relocated, 2 MHz of spectrum certainly would not accommodate their needs. The severe levels of interference that would result from attempting to compress tens of thousands of private wireless licensees into such a small amount of spectrum would be staggering. Instead, AMTA's petition should be dismissed for what it is, a ridiculous attempt to reallocate private wireless use for the benefit the largest SMR provider – Nextel.

To justify only providing 2 MHz of spectrum for private wireless use, AMTA cavalierly suggests that "most of their [private wireless] needs would be better served on the type of system that will be deployed by geographic licensees. . ."⁹ AMTA's logic is infirm. As clearly demonstrated by the commenters, commercial providers cannot possibly meet all of the communications requirements of the private wireless industry.¹⁰

⁸ See In the Matter of An Allocation of Spectrum for the Private Mobile Radio Services, Petition for Rule Making Submitted by the Land Mobile Communications Council, RM-9267, filed April 22, 1998 (LMCC Petition) at Appendix B.

⁹ Petition at 14.

¹⁰ See Comments of ARINC at 3 ("geographic-area-wide systems have not been able to provide adequate service to aviation at airports"); Comments of AAR at 5 ("there simply is no subscriber-based

Private wireless communications are designed to satisfy a unique communication requirement – generally that of a specific company or entity. Commercial communications, on the other hand, include a variety of services that are designed to satisfy the communications needs of the general public.

ITA believes that the record in this proceeding *clearly* supports the premise that AMTA's petition is without merit and should be summarily dismissed. Moreover, ITA agrees with the Industry Coalition's assessment that:

AMTA has failed to produce even a scintilla of evidence that would warrant overturning the Commission's previous decision to allocate the 450-470 MHz band for private wireless use. The only rationale AMTA offers is to suggest that the Commission should promote spectrum efficiency in this band by allowing a select group of licensees – the SMR community – to purchase this spectrum at auction. This certainly is insufficient justification for reconsideration of a long-standing frequency allocation, the monumental investment made in the private systems authorized to use this spectrum, and the efficiencies gained by the shared use of the spectrum.¹¹

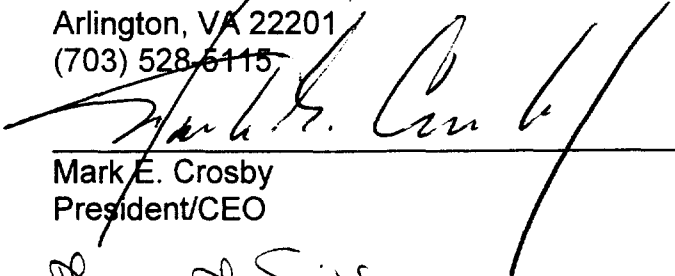
Respectfully Submitted,

Industrial Telecommunications Association

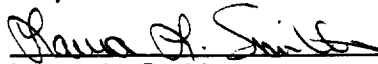
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commercial service available as a substitute for these unique operations"); Comments of APCO at 3 ("Commercial providers simply do not offer adequate coverage needs, reliability, safety, security, or long-term economic feasibility for public safety and most private wireless operations."); Comments of Boeing at 1-2 ("While certain of Boeing's communication demands could be met with wireline or commercial wireless services, the majority simply could not.").

¹¹ See Comments of the Industry Coalition at 11.

Certificate of Service

I, Laura L. Smith, do hereby certify that on the 8th day of October 1999, I forwarded to the parties listed below a copy of the foregoing Reply Comments of the Industrial Telecommunications Association, Inc. by first-class mail, postage pre-paid:

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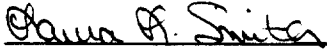
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